

United States District Court  
Eastern District of Michigan

United States of America,

Plaintiff,

Case Nos. 16-cr-20394; 19-cr-20033

v.

Honorable Sean F. Cox

James Robert Liang, et al.;  
Richard Bauder, et al.

Defendants.

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**Government's Application for Permission to File a Brief of More  
than Twenty-Five Pages**

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The United States Government, by Saima M. Mohsin, Acting United States Attorney for the Eastern District of Michigan, and John K. Neal, Assistant United States Attorney, hereby moves this Court, pursuant to Local Rule 7.1(d)(3)(A), for an order permitting it to file a brief of more than 25 pages in support of its **Petition Regarding Grand Jury Material Sought in Freedom of Information Act Litigation**, for the following reasons:

1. This Petition involves a novel situation. In a lawsuit brought under the Freedom of Information Act (FOIA), pending in the Central District of California, the government has been ordered to release documents it

received pursuant to a grand jury subpoena issued to the Volkswagen Group of America, or to provide a document-by-document index describing them in detail, thereby publicly disclosing the contents of the subpoenaed documents. The government believes that Rule 6(e) bars it from disclosing these records. The government is not aware of any comparable circumstance in which a court has held that FOIA litigation can justify disclosure of grand jury material.

2. Volkswagen produced approximately 5.8 million documents in response to the subpoena. The prosecutions that followed were highly significant, involving a two corporate guilty pleas and indictments returned against twelve individual employees of the affected companies, including the former CEO of Volkswagen AG.
3. This matter is therefore of considerable import for the United States government. The government respectfully submits that setting forth the procedural history, facts, and applicable law in a fulsome and accurate manner requires a brief that exceeds 25 pages in length. Specifically, the government seeks to file a brief that totals 38 pages.
4. Pursuant to Local Rule 7.1(d)(3)(A), the government submits this application to the court. Should the court grant this application, the

government will file a redacted version of the Petition on the public docket, and will seek leave to file an unreacted copy under seal.

5. The government has sought the concurrence in this application of Volkswagen AG, a party in Case No. 16-20394 whose interests may be affected by the Petition, as well as of Daniel Jacobs, counsel for the plaintiff in the FOIA litigation in the Central District of California (*Kalbers v. Department of Justice*, No. CV 18-08439 FMO (C.D. Cal.)). Volkswagen AG has no objection to the government's application; plaintiff's counsel did not respond to the government's request for concurrence, so the government assumes he opposes the relief sought in this application.

Respectfully submitted,

Saima M. Mohsin,  
Acting United States Attorney

*s/John K. Neal*

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Dated: May 24, 2021

**Certificate of Service**

I hereby certify that on May 24, 2021, I electronically filed the foregoing application with the Clerk of the Court using the ECF system, which will send notification to the attorneys of record listed on the ECF system. I also e-mailed a copy of the foregoing to Daniel Jacobs, plaintiff's counsel in the FOIA currently case pending in the Central District of California.

s/John K. Neal

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